

Attorney's Docket No.: 081862-P072

Patent

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re of Application of:

David. A. Hughes et al.

Examiner: A. Hsu

Application No.: 08/825,492

Art Group: 2738

Filing Date: March 28, 1997

For: SCHEME FOR MERGING PARTIALLY FILED  
ATM CELLSFILED VIA FACSIMILE TRANSMISSION  
703-308-6199Commissioner for Patents and Trademarks  
Washington, D.C. 20231

AUS - 9 2002

INTERFERENCES

**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES****Declaration of Tarek N. Fahmi Regarding Non-Receipt of Notice of Oral Hearing**

Sir:

The undersigned, an attorney of record for the above-captioned matter, being duly admitted to practice before the United States Patent and Trademark Office declares as follows:

1. On or about August 6, 2002, I received a telephone call from Ms. C. Moore, a paralegal to the Board of Patent Appeals and Interferences regarding the oral hearing scheduled in the appeal of this matter. Ms. Moore advised me that the oral hearing was scheduled for August 14, 2002, and indicated that the Board had not received a confirmation indicating the intent on the part of the applicant to participate in the oral hearing in reply to the Notice of Oral Hearing mailed by the USPTO.
2. In response, I advised Ms. Moore that I would inquire as to the circumstances of the matter and contact her. Thereafter, I reviewed the docketing information regarding this matter that is maintained in our firm. In accordance with our office procedures, all communications received from the USPTO are entered into our docketing database and copies thereof are provided to the responsible attorneys. In addition, upon such entry of information, copies of the files together with the received communication are provided to the responsible attorney for action.
3. In this case, our docketing database did not include any information that would indicate that our firm had ever received the Notice of Oral hearing from the USPTO. Further, upon inspection, the Notice of Oral Hearing was not found in the file jacket

for this matter. Nor was the Notice found during a diligent search of our mailroom facilities.

4. Although we were unable to locate the Notice of Oral Hearing, on or about August 8, 2002, I placed a telephone call to Ms. Moore to advise her that the applicant would indeed like to pursue the oral hearing in this matter if arrangements could be made to conduct the hearing by telephone. A separate request for such telephonic appearance is being submitted herewith.
5. For all the foregoing reasons, the undersigned requests that the Board maintain the scheduled hearing date for this matter inasmuch as the failure to confirm the Notice of Oral Hearing was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

If there are any fees associated with the communication, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: August 9, 2002

  
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